

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PDV USA, INC., : Case No.: 20-cv-3699

Plaintiff, :

v. :

INTERAMERICAN CONSULTING INC.,: New York, New York

Defendant. : May 30, 2024

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TRANSCRIPT OF STATUS CONFERENCE HEARING

BEFORE THE HONORABLE ROBERT W. LEHRBURGER

UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: WILLKIE FARR & GALLAGHER LLP
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For Defendant: BYRD CAMPBELL P.A.
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1 So one thing that I did pick up on was what
2 did seem to be a changing rationale where the
3 initial explanation was that the document was in
4 Mr. Rivera's possession and that was different than
5 being in Interamerican's possession. And now Rivera
6 no longer has it as the other explanation that came
7 later, that is that Mr. Rivera simply doesn't have
8 the memo, even though he did at one time.

9 How do you explain that change in
10 rationale?

11 MR. JOHNSON: Your Honor, I don't know that
12 I recall Interamerican saying to the Court that
13 Mr. Rivera had it but couldn't produce it. My
14 recollection from the beginning of this case is that
15 while it may have been produced to Mr. Rivera in
16 electronic form when it was originally received, he
17 no longer had it as of the time this case was
18 initiated. And when we went to do our document
19 production and did our searches of everything, he
20 simply didn't have it.

21 Your Honor, the answer to why it wasn't
22 included on a privilege log is simple. We didn't
23 have it. We include items on privilege logs that
24 are being withheld from production because of a
25 claim of privilege. If we don't have it to produce

1 MR. JOHNSON: It's certainly a valid point,
2 Your Honor. I think that I can't, you know, make
3 this representation to the Court, but my
4 recollection is from my client that he had physical
5 possession of it at the time it was produced and
6 then lost possession of it and never reobtained
7 possession of it, which I think was well before any
8 threat or institution of the lawsuit.

9 But, I mean, we can get a declaration from
10 Mr. Rivera about that if the Court would like, but I
11 don't know what the facts are now to make the
12 representation to the Court, Your Honor.

13 THE COURT: All right. All right.

14 I'm going to ask a few questions of
15 Mr. Sullivan, but I'll obviously give you further
16 opportunity to speak.

17 So, Mr. Sullivan, how do you respond to the
18 point about the raising of this issue being belated,
19 and that based on what Mr. Johnson was referring to
20 you not only knew of the memo's existence back in
21 '22, you also knew that it had been disclosed to
22 Ms. Nuhfer, and so if you had wanted to raise this
23 issue, you had plenty of time to do it?

24 MR. SULLIVAN: Sure, Your Honor, and thank
25 you.